Letter to the Editor

Can Background Checks of Long Term Care Residents Improve Safety?

To The Editor:

The recent article in the Journal of the American Medical Association, “State policies for the residency of offenders in long term care facilities: Balancing right to care with safety,” outlines an important area of concern for practitioners. Until recently, the complexities of criminal offenders requiring long term care have been largely unexplored. The thought of a vulnerable loved one living in close proximity to a criminal offender is a frightening idea for families, and the public will increasingly look to the long term care medicine community to ensure the protection of residents. To further facilitate the establishment of best practices surrounding this issue, the American Medical Directors Association recently passed a resolution to explore how nursing homes can best address the anticipated future increase in residents with criminal/correctional histories.

It is surprising that of the fourteen states that have passed specific legislation regarding this issue, only five required background checks on residents. This underscores that for much of the country, a critical policy gap exists that fails to ensure facilities’ acquisition of knowledge of a current or potential resident’s history of prior offenses. This parallels a similar concern regarding inconsistent laws and practices among states regarding criminal background checks of employees, which recently gained media attention when a Department of Health and Human Services report revealed that 92% of nursing facilities employed at least one individual with at least one prior conviction. The Patient Protection and Affordable Care Act mandated that the “Secretary of Health and Human Services carry out a nationwide program for States to conduct national and statewide criminal background checks for direct patient access employees of nursing facilities and other providers.” Hopefully, this measure will serve to protect nursing home residents from staff members who pose a potential threat to their safety. The question remains whether or not a similar program is necessary for screening nursing home residents for prior violent convictions. Securing the knowledge of a resident’s past criminal offenses is the critical step that must occur to allow nursing homes to assess whether they are able to balance their care needs while protecting the security of other residents. Such information will instruct the resident plan of care and provide valuable information for the interdisciplinary team.

Certainly, not all patients with a criminal history requiring long term care will pose an inherent threat to others, given their physical, cognitive, and functional status. Those with criminal backgrounds should not become a target of additional scrutiny to the exclusion of other residents with problematic behaviors. It is unknown if long term care residents with criminal histories pose an equal or greater safety risk to others than those with potentially aggressive conditions, such as dementia with agitation. Conducting background checks on every potential admission would undoubtedly be costly and time consuming, and is likely unnecessary for the majority of people screened. Such practices could cause costly delays in transitions of care and potentially place severe restrictions on patients’ access to necessary long term care services. Facilities should be allowed to discern, however, whether the nature of one’s prior convictions, in the context of their current condition, poses an unmanageable safety risk to the other residents. Implementation of routine criminal background checks would support this process. Thus, it seems that discussion and investigation surrounding the issue of whether to institute standardized background checks on all nursing home residents nationwide should be a priority for the long term care community. By grappling with this contentious topic now, we will be better equipped for the future administrative and care planning challenges it will present.

References


Kristen Thornton, MD
Senior Instructor of Medicine & Family Medicine
University of Rochester
Rochester, New York